IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 19827 of 2004

Between:

M/s. Synergies Dooray Automotives Private Limited,

V.E.P.Z., Duvvada, Visakhapatnam, Rep. by its

General Manager (Accounts), Shri M.M. Hemachandran.

..... PETITIONER

AND

1 The Professional Tax Officer & The Deputy

Commercial Tax Officer, Visakhapatnam.

2 The Commissioner of Commercial Taxes,

Nampally Station Road, Hyderabad.

3 The Principal Secretary to Government, Revenue Department,

Government of Andhra Pradesh, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction, more particularly one in the nature of Writ of Mandamus declaring the impugned provisions of Section 15(2) of the Andhra Pradesh Tax on Professions, Trades, Callings and Employments Act, 1987 (Act

No.22 of 1987) as unconstitutional, arbitrary and unjustified in the facts and circumstances of the case and consequently set aside the orders all dated 15-9-2004 passed by the first respondent imposing penalty and levying interest for the period 2000-01 to 2004-2005.

For the Petitioner: Mr. C.KODANDA RAM, Advocate.

For Respondents: GP FOR COMMERCIAL TAXES

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

This Court vide its order dated 01-11-2004 while directing notice before admission requiring the respondents to show cause also passed the following order:

> "It is submitted that the tax has already been paid. We direct that the petitioner shall pay the interest plus 25% of the penalty, within a period of two weeks from today. If the order is complied with, the appeal shall be entertained.
>
> List for counter affidavit after two weeks."

Sri C. Kodanda Ram, learned counsel for the writ petitioner submitted that the writ petitioner had complied with the order dated 01-11-2004 and accordingly paid interest plus 25% of the penalty and the appeal is in the process of being numbered and entertained by the appellate authority.

In such view of the matter, no further adjudication of this writ petition as such may be required at this stage. The Writ Petition is accordingly disposed of directing the appellate authority to dispose of the appeal on its own merits. It is, however, made clear that the interlocutory order dated 01-11-2004 pursuant to which the appeal is now to be entertained, heard and disposed of by the appellate authority shall not be treated as a precedent.

The question relating to the constitutional validity of Section 15(2) of the Andhra Pradesh Tax on Professions, Trades, Callings and Employments Act, 1987 (Act

No.22 of 1987) is left open to be decided in an appropriate case.

(B. Sudershan Reddy, J)

01-12-2004

(T.Ch. Surya Rao, J)

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To

1 The Professional Tax Officer & The Deputy

Commercial Tax Officer, Visakhapatnam.

2 The Commissioner of Commercial Taxes,

Nampally Station Road, Hyderabad.

3 The Principal Secretary to Government, Revenue Department,

Government of Andhra Pradesh, Secretariat, Hyderabad.

4 Two CCs to the Government Pleader for Commercial Tax, High

Court of Andhra Pradesh, Hyderabad (OUT).

5 Two CD copies.